

By Senator Evers

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1 A bill to be entitled
2 An act relating to fertilizer; amending s. 403.9336,
3 F.S.; deleting legislative findings relating to the
4 implementation by local governments of certain
5 fertilizer management practices; amending s. 403.9337,
6 F.S.; deleting authority for certain counties and
7 municipalities to adopt fertilizer management
8 practices more stringent than standards of a specified
9 model ordinance; amending ss. 570.07 and 576.181,
10 F.S.; requiring the Department of Agricultural and
11 Consumer Services to regulate the sale of fertilizer,
12 including the composition, formulation, packaging,
13 use, application, and distribution of fertilizer;
14 preempting such regulation of fertilizer to the state
15 and the department; specifying that such regulation of
16 fertilizer by counties, municipalities, and other
17 political subdivisions is void; providing an effective
18 date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 403.9336, Florida Statutes, is amended
23 to read:

24 403.9336 Legislative findings.—The Legislature finds that
25 the implementation of the Model Ordinance for Florida-Friendly
26 Fertilizer Use on Urban Landscapes (2008), which was developed
27 by the department in conjunction with the Consumer Fertilizer
28 Task Force, the Department of Agriculture and Consumer Services,
29 and the University of Florida Institute of Food and Agricultural

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30 Sciences, will assist in protecting the quality of Florida's
31 surface water and groundwater resources. ~~The Legislature further~~
32 ~~finds that local conditions, including variations in the types~~
33 ~~and quality of water bodies, site specific soils and geology,~~
34 ~~and urban or rural densities and characteristics, may~~
35 ~~necessitate the implementation of additional or more stringent~~
36 ~~fertilizer management practices at the local government level.~~

37 Section 2. Section 403.9337, Florida Statutes, is amended
38 to read:

39 403.9337 Model Ordinance for Florida-Friendly Fertilizer
40 Use on Urban Landscapes. Except as otherwise provided in ss.
41 570.07(41) and 576.181(5):

42 (1) All county and municipal governments are encouraged to
43 adopt and enforce the Model Ordinance for Florida-Friendly
44 Fertilizer Use on Urban Landscapes or an equivalent requirement
45 as a mechanism for protecting local surface and groundwater
46 quality.

47 (2) Each county and municipal government located within the
48 watershed of a water body or water segment that is listed as
49 impaired by nutrients pursuant to s. 403.067, shall, ~~at a~~
50 ~~minimum,~~ adopt the department's Model Ordinance for Florida-
51 Friendly Fertilizer Use on Urban Landscapes. ~~A local government~~
52 ~~may adopt additional or more stringent standards than the model~~
53 ~~ordinance if the following criteria are met:~~

54 ~~(a) The local government has demonstrated, as part of a~~
55 ~~comprehensive program to address nonpoint sources of nutrient~~
56 ~~pollution which is science-based, and economically and~~
57 ~~technically feasible, that additional or more stringent~~
58 ~~standards than the model ordinance are necessary in order to~~

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59 ~~adequately address urban fertilizer contributions to nonpoint~~
60 ~~source nutrient loading to a water body.~~

61 ~~(b) The local government documents that it has considered~~
62 ~~all relevant scientific information, including input from the~~
63 ~~department, the institute, the Department of Agriculture and~~
64 ~~Consumer Services, and the University of Florida Institute of~~
65 ~~Food and Agricultural Sciences, if provided, on the need for~~
66 ~~additional or more stringent provisions to address fertilizer~~
67 ~~use as a contributor to water quality degradation. All~~
68 ~~documentation must become part of the public record before~~
69 ~~adoption of the additional or more stringent criteria.~~

70 (3) Any county or municipal government that adopted its own
71 fertilizer use ordinance before January 1, 2009, is exempt from
72 this section. Ordinances adopted or amended on or after January
73 1, 2009, must substantively conform to the most recent version
74 of the model fertilizer ordinance and are subject to subsections
75 (1) and (2), as applicable.

76 (4) This section does not apply to the use of fertilizer on
77 farm operations as defined in s. 823.14 or on lands classified
78 as agricultural lands pursuant to s. 193.461.

79 Section 3. Subsection (16) of section 570.07, Florida
80 Statutes, is amended, present subsection (41) is renumbered as
81 subsection (42), and a new subsection (41) is added to that
82 section, to read:

83 570.07 Department of Agriculture and Consumer Services;
84 functions, powers, and duties.—The department shall have and
85 exercise the following functions, powers, and duties:

86 (16) To enforce the state laws and rules relating to:

87 (a) Fruit and vegetable inspection and grading.†

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- 88 (b) Pesticide spray, residue inspection, and removal.†
 89 (c) Registration, labeling, inspection, and analysis of
 90 commercial stock feeds and commercial fertilizers.†
 91 (d) Classification, inspection, and sale of poultry and
 92 eggs.†
 93 (e) Registration, inspection, and analysis of gasolines and
 94 oils.†
 95 (f) Registration, labeling, inspection, and analysis of
 96 pesticides.†
 97 (g) Registration, labeling, inspection, germination
 98 testing, and sale of seeds, both common and certified.†
 99 (h) Weights, measures, and standards.†
 100 (i) Foods, as set forth in the Florida Food Safety Act.†
 101 (j) Inspection and certification of honey.†
 102 (k) Sale of liquid fuels.†
 103 (l) Licensing of dealers in agricultural products.†
 104 (m) Administration and enforcement of all regulatory
 105 legislation applying to milk and milk products, ice cream, and
 106 frozen desserts.†
 107 (n) Recordation and inspection of marks and brands of
 108 livestock.† ~~and~~
 109 (o) Regulation of the sale of fertilizer, including the
 110 composition, formulation, packaging, use, application, and
 111 distribution of fertilizer.
 112 (p) ~~(o)~~ All other regulatory laws relating to agriculture.

113
 114 In order to ensure uniform health and safety standards, the
 115 adoption of standards and fines in the subject areas of
 116 paragraphs (a)-(o) ~~(a)-(n)~~ is expressly preempted to the state

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117 and the department. Any local government enforcing the subject
118 areas of paragraphs (a)-(o) ~~(a)-(n)~~ must use the standards and
119 fines set forth in the pertinent statutes or any rules adopted
120 by the department pursuant to those statutes.

121 (41) The department has exclusive authority to regulate the
122 sale of fertilizer, including the composition, formulation,
123 packaging, use, application, and distribution of fertilizer
124 under chapter 576. This subsection expressly preempts such
125 regulation of fertilizer to the state and the department. Such
126 regulation of fertilizer by a county, municipality, or other
127 political subdivision is void, regardless of when adopted.

128 Section 4. Subsection (5) is added to section 576.181,
129 Florida Statutes, to read:

130 576.181 Administration; rules; procedure; preemption.-

131 (5) The department has exclusive authority to regulate the
132 sale of fertilizer, including the composition, formulation,
133 packaging, use, application, and distribution of fertilizer.
134 This subsection expressly preempts such regulation of fertilizer
135 to the state and the department. Such regulation of fertilizer
136 by a county, municipality, or other political subdivision is
137 void, regardless of when adopted.

138 Section 5. This act shall take effect July 1, 2011.